

CIVIL COVER SHEET

The JS -- 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

Place an X in the appropriate box:

☐ Green Bay Division

☒ Milwaukee Division

I.(a) PLAINTIFFS

Brian French, David French, Jeanna French,
Paula French Van Akkeren, Individuals

DEFENDANTS

Wachovia Bank, National Association

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Sheboygan, WI
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Mecklenburg, NC
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT
OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

John C. Mitby; Axley Byrnelson LLP
2 E. Mifflin Street
Madison, WI 53701-1767

ATTORNEYS (IF KNOWN)

Peter J. Meyer; Gardner Carton & Douglas LLP
191 N. Wacker Drive, Suite 3700
Chicago, IL 60606

II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

☐ 1 U.S. Government
Plaintiff

☐ 3 Federal Question
(U.S. Government Not a Party)

☐ 2 U.S. Government
Defendant

☒ 4 Diversity
(Indicate Citizenship of Parties
in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE (For Diversity Cases Only) BOX FOR DEFENDANT)

Citizen of This State

PTF DEF
☒ 1 ☐ 1

Incorporated or Principal Place
of Business In This State

PTF DEF
☐ 4 ☐ 4

Citizen of Another State

☒ 2 ☒ 2

Incorporated and Principal Place
of Business in Another State

☐ 5 ☐ 5

Citizen or Subject of a
Foreign Country

☐ 3 ☐ 3

Foreign Nation

☐ 6 ☐ 6

IV. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT

- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment
& Enforcement of
Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted
Student Loans-Fed.
Veterans
- ☐ 153 Recovery of Overpayment
of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☒ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

TORTS

PERSONAL INJURY

- ☐ 310 Airplane
- ☐ 315 Airplane Product
Liability
- ☐ 320 Assault, Libel &
Slander
- ☐ 330 Federal Employers'
Liability
- ☐ 340 Marine
- ☐ 345 Marine Product
Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle
Product Liability
- ☐ 360 Other Personal Injury

PERSONAL INJURY

- ☐ 362 Personal Injury -
Med. Malpractice
- ☐ 365 Personal Injury -
Product Liability
- ☐ 368 Asbestos Personal
Injury Product Liability

PERSONAL PROPERTY

- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal
Property Damage
- ☐ 385 Property Damage
Product Liability

FORFEITURE/PENALTY

- ☐ 610 Agriculture
- ☐ 620 Other Food & Drug
- ☐ 625 Drug Related Seizure
of Property 21 USC 881
- ☐ 630 Liquor Laws
- ☐ 640 R.R. & Truck
- ☐ 650 Airline Regs.
- ☐ 660 Occupational Safety/Health
- ☐ 690 Other

LABOR

- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Mgmt. Relations
- ☐ 730 Labor/Mgmt.
Reporting & Disclosure Act
- ☐ 740 Railway Labor Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Empl. Ret. Inc. Security Act

BANKRUPTCY

- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal
28 USC 157

PROPERTY RIGHTS

- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY

- ☐ 861 HIA (1395m)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS

- ☐ 870 Taxes (U.S. Plaintiff or
Defendant)
- ☐ 871 IRS Third Party
26 USC 7609

OTHER STATUTES

- ☐ 400 State
Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce/K.C.
Rates/etc.
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and
Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Satellite TV
- ☐ 810 Selective Service
- ☐ 850 Securities/Commodities/
Exchange
- ☐ 875 Customer Challenge 12
USC 3410
- ☐ 891 Agricultural Acts
- ☐ 892 Economic
Stabilization Act
- ☐ 893 Environmental
Matters
- ☐ 894 Energy Allocation Act
- ☐ 895 Freedom of
Information Act
- ☐ 900 Appeal of Fee
Determination Under
Equal Access to Justice
- ☐ 950 Constitutionality of
State Statutes
- ☐ 890 Other Statutory Actions

V. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

☐ 1 Original
Proceeding

☒ 2 Removed from
State Court

☐ 3 Remanded from
Appellate Court

☐ 4 Reinstated or
Reopened

☐ 5 Transferred from
another district

☐ 6 Multidistrict
Litigation

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

Defendant Wachovia Bank is removing this case pursuant to 28 U.S.C. Section 1441 and 1446

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION
☐ UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ YES ☒ NO

VIII. RELATED CASE(S) IF ANY (See instructions):

JUDGE

DOCKET NUMBER

DATE

8/11/06

SIGNATURE OF ATTORNEY OF RECORD

Peter J. Meyer

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

BRIAN FRENCH, DAVID FRENCH, JEANNA FRENCH, and PAULA FRENCH VAN AKKEREN)	
)	
)	No.
Plaintiffs,)	
)	
v.)	
)	
WACHOVIA BANK, NATIONAL ASSOCIATION,)	
)	
Defendant.)	

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1441 and § 1446, Defendant Wachovia Bank, National Association ("Wachovia"), by counsel, hereby submits its Notice of Removal and states as follows:

1. On July 14, 2006, Plaintiffs commenced an action captioned *Brian French, et al. v. Wachovia Bank, National Association*, Case No. 06CV0555, by filing a Summons and Complaint in the Circuit Court of Sheboygan County. That action is pending within the Milwaukee Division of this United States District Court.

2. Defendant Wachovia was served with process and a copy of the Complaint on July 21, 2006. This Notice of Removal is filed within the time permitted by 28 U.S.C. §1446(b).

3. Pursuant to 28 U.S.C. § 1446(a), attached as Exhibit '1' is a copy of all process, pleadings, and orders served upon Defendant Wachovia.

4. Based on the allegations of the Complaint, this Court has original subject-matter jurisdiction over this action pursuant to 28 U.S.C. § 1332 (diversity of citizenship).

5. Complete diversity of citizenship existed as of the date of filing of this action and continues to exist. Plaintiffs Brian French and David French are citizens of Wisconsin. Plaintiff Jeanna French is a citizen of Minnesota. Plaintiff Paula French Van Akkeren is a citizen of

Colorado.

6. Defendant Wachovia, a national association, is a citizen of the state in which its main office is located. 28 U.S.C. § 1348; *Wachovia Bank v. Schmidt*, ___ U.S. ___, 126 S.Ct. 941 (2006). As alleged in Plaintiffs' Complaint, Wachovia's main office is in North Carolina. Accordingly, there is complete diversity of citizenship between the Defendant and Plaintiffs.

7. Based on the allegations in the Complaint, the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest of costs. Among other relief, the Complaint seeks recovery of "[a]ll fees that defendant or its affiliates have been paid by the French Family," which the Complaint alleges at ¶ 40 was in excess of \$500,000. The Complaint also seeks recovery of the "loss in cash value of the policies that were surrendered," which it alleges at ¶ 43 amounted to "approximately \$200,000 per year." The Complaint also seeks recovery of a "lost dividend" which it alleges at ¶ 44 was \$41,409.

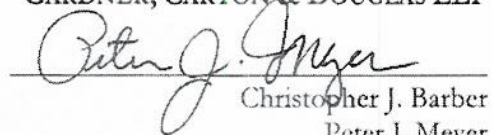
8. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal shall be promptly filed with the Clerk for the Circuit Court of Sheboygan County and on Plaintiffs' counsel.

Accordingly, Defendant Wachovia hereby removes this action to the United States District Court for the Eastern District of Wisconsin.

August 14, 2006

Respectfully submitted,

GARDNER, CARTON & DOUGLAS LLP


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CH02/ 22458170.1

STATE OF WISCONSIN

CIRCUIT COURT

SHEBOYGAN COUNTY

BRIAN FRENCH

4435 North Evergreen Drive
Sheboygan, WI 53081;

DAVID FRENCH

11516 North Spring Avenue
Mcquon, WI 53092;

JEANNA FRENCH

2600 Woodsy Lane
Woodland, MN 55391; and

PAULA FRENCH VAN AKKEREN

8061 Bellflower Court
Longmont, CO 80503,

Plaintiffs,

vs.

WACHOVIA BANK, NATIONAL
ASSOCIATION

First Union Plaza
Charlotte, NC 28288,

Defendant.

CIRCUIT COURT BRANK H #4
TERENCE T BOURKE
615 N SIXTH STREET
SHEBOYGAN WI 53081

06CV0555

Case No.

Case Code 30303 (Other Contracts)

06

JUL 14

P 2:42

CLERK CIRCUIT COURT
LINES

SUMMONS

THE STATE OF WISCONSIN

To each person named above as a defendant:

You are hereby notified that the plaintiffs named above filed a lawsuit or other legal action against you. The Complaint, which is attached, states the nature and basis of the legal action.

Within forty-five (45) days of receiving this Summons, you must respond with a written answer, as that term is used in Ch. 802 of the Wisconsin Statutes, to the Complaint. The court

EXHIBIT

tabbles

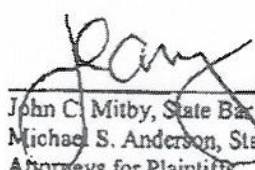
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may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the court, whose address is Sheboygan County Courthouse, 615 North 6th Street, Sheboygan, WI 53081, and to Axley Brynerson, LLP, plaintiffs' attorneys, whose address is 2 East Mifflin Street, Post Office Box 1767, Madison, WI 53701-1767. You may have an attorney help or represent you.

If you do not provide a proper answer within forty-five (45) days, the court may grant judgment against you for the award of money or other legal action requested in the Complaint, and you may lose your right to object to anything that is or may be incorrect in the Complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated this 11 day of May, 2006.

AXLEY BRYNELSON, LLP


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